



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

OG
F. #2003R00452

*271 Cadman Plaza East
Brooklyn, New York 11201*

May 11, 2022

By ECF

The Honorable Raymond J. Dearie
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Vincent DeMartino
Criminal Docket No. 03-285 (RJD)

Dear Judge Dearie:

This letter is being written to provide the Court with the latest updates received by the government pertaining to Vincent DeMartino's medical care at FCI Hazelton.

First, the government received confirmation that appointments for DeMartino are currently scheduled with the Audiology and the Ophthalmology departments of West Virginia University ("WVU") hospital. Because of safety concerns, the government will disclose the exact dates of those appointment in an ex-parte submission under seal.

Second, the government was recently informed of a March 7, 2022 ophthalmology consult note from the ophthalmology department of WVU where an ophthalmologist stated that "no urgent surgical ophthalmic intervention [is] necessary." The Administrative Note from the Bureau of Prison's records noting this consultation and the underlying consultation notes are attached hereto as Exhibit A, under seal, as the Exhibit contains personal health information ("PHI"). The government was unaware of the underlying notes pertaining to this consultation at the time of the May 4, 2022 status conference.

Third, attached hereto as Exhibit B, under seal,¹ is a memorandum for the Court from Dr. Gregory Mims, II, the Clinical Director for FCC Hazelton. After examining

¹ This letter also contains DeMartino's PHI.

DeMartino's records and providing a precise diagnosis of his condition, Dr. Mims states the following: "It does not appear that there is an immediate surgical need. The necessity for surgical intervention is dependent on his progression with continued conservative management."

Based on the foregoing, the government submits that it does not appear that DeMartino requires surgery at this time. DeMartino's upcoming appointment with the Ophthalmology department at WVU shows that the Bureau of Prisons is monitoring his condition. His upcoming appointment with the Audiology department shows that the BOP is taking steps to provide for DeMartino's Audiology care. To be sure, this appointment was delayed for an extended period of time. However, the pandemic has had a negative impact upon the medical care available for all Americans, not just DeMartino.

Finally, as stated in the Government's February 24, 2022 submission, DeMartino refused a disinfected and fully operational CPAP machine in December 2021. See ECF Nos. 259 and 260. The government was informed by the Assistant Health Services Administrator at FCC Hazelton that providing a used and disinfected CPAP machine is the standard of care that DeMartino could expect to find in any hospital setting.

At the Court's request, the government stands ready to provide additional updates as they are received, including updates following DeMartino's upcoming appointments at WVU.

Respectfully submitted,

BREON PEACE
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